IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO. 21488 of 2004

Between:

Boinapalli Pichaiah, S/o, Ramaiah,

R/o. Erragunta village, Chadrugonda Mandal, Khammam District.

..... PETITIONER

AND

1. The Additional Agent to Government and Project Officer,

Integrated Tribal Development Agency, Bhadrachalam,

Khammam.

2. The Special Deputy Collector, (Tribal Welfare)

Palvancha, Khammam District.

3. The Mandal Revenue Officer, Chandrugonda, Khammam District.

4. Soidum Bojji, S/o. Not known,

R/o.Namavaram village, Chandrugonda Mandal,

Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to

call for the connected record from the first respondent and quash the order of the first respondent in CMA.No.38 of 203 dated 28.08.2004, confirming the order of the second respondent in Case NO.17/87 by issuing an appropriate writ, order or direction preferably a writ in the nature of Certiorari and pass such other order or orders.

Counsel for the Petitioner:MR.K.RANGA RAO

Counsel for the Respondent Nos.1 to 3: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.4:-------

The Court at the admission stage made the following Order:

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.21488 OF 2004

ORDER:

This writ petition is filed questioning the order of the first respondent passed in CMA.No.38 of 2003, dated 28.08.2004.

A perusal of the impugned order would disclose that when the case was called on 21.02.2004, learned counsel representing the petitioner/appellant filed Vakalat and sought time for filing the documents and therefore, the case was posted to 07.08.2004. It appears that on 07.08.2004, when the case was posted, none appeared for both the parties before the appellate authority and therefore, the impugned order was passed. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the first respondent passed the impugned order without affording any opportunity of hearing to the petitioner and without production of the documents and even the counsel who was present on 21.02.2004 was not informed about the adjournment, therefore, the order is vitiated for non-giving of opportunity.

Learned Government Pleader appearing for respondents 1 to 3 contended that as the counsel for both the parties failed to attend before the appellate

authority, the impugned order has been passed and it does not suffer from any legal infirmities so as to call for interference of this Court.

Perused the order under challenge.

Admittedly, the case was posted on 21.02.2004 and the counsel appearing on behalf of the petitioner filed Vakalat and sought time for filing the documents. Thereafter, the case was posted to 07.08.2004. Since nobody was present on behalf of both the parties, the impugned order was passed. It is not known from this order whether the date of adjournment to 07.08.2004 was fixed on 21.02.2004. It appears that the impugned order was passed without affording opportunity to the petitioner as well as to the respondent and therefore, the order is vitiated for that reason.

The impugned order passed in CMA.No.38 of 2003, dated 28.08.2004 by the first respondent is set aside and the matter is remitted to the first respondent for fresh disposal after giving reasonable opportunity of hearing to both the parties and dispose of the same within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

24.11.2004

Note:CC in three days

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usd

To

1. The Additional Agent to Government and Project Officer,

Integrated Tribal Development Agency, Bhadrachalam,

Khammam.

2. The Special Deputy Collector, (Tribal Welfare)

Palvancha, Khammam District.

3. The Mandal Revenue Officer, Chandrugonda, Khammam District.

4. Two CCs to G.P. for Social Welfare, High Court Buildings, High Court of A.P., Hyderabad (OUT).

5. Two CD copies.